

IN RESPONSE TO THE OFFICE ACTION:

REMARKS REGARDING AMENDMENTS

Independent claim 1 has been amended so that the scope and language of the claim is clearer and more precise in defining what the Applicant considers to be the invention. Support for the amended claim is found in previously presented claim 1 as well as the original specification.

REJECTION UNDER 35 U.S.C. § 112, 1ST PARA:

Claims 1–2, 5, and 7–9 have been rejected under 35 U.S.C. § 112, 1st paragraph, as allegedly failing to comply with the written description requirement. Specifically, the Examiner alleges that an “in situs” imaging system is not supported by a full and complete description in the specification. Independent claim 1, as amended, does not include an “in situs” imaging system. Thus, Application respectfully requests that the Examiner reconsider and withdraw the above rejection of claims 1–2, 5, and 7–9.

REJECTION UNDER 35 U.S.C. § 112, 2ND PARA:

Claims 1–2, 5, and 7–9 have been rejected under 35 U.S.C. § 112, 2nd paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner alleges that an “in situs” imaging system is not described in the specification and it is not clear what is intended to be such an imaging system. Independent claim 1, as amended, does not include an “in situs” imaging system. Thus, Application respectfully requests that the Examiner reconsider and withdraw the above rejection of claims 1–2, 5, and 7–9.

REJECTION UNDER 35 U.S.C. § 103(a):

Claims 1–2, 5, and 7–9 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. Patent No. 5,130,545 to Lussier (“Lussier”). Applicant respectfully requests that the Examiner reconsider and withdraw the above rejection of the claims in view of the following remarks.

Independent claim 1 requires limitations not taught, disclosed, or suggested by Lussier. For example, claim 1 requires that one or more samples of raw product are obtained from a selected plant. These one or more samples are then analyzed. Lussier discloses measuring or detecting infrared fluorescence emissions from a plant to determine the overall growth,

productivity, and health of the plant. A sample of raw product is not obtained from a plant to be analyzed as required by claim 1. Instead, Lussier allows for field measurements to be taken as it generally measures the emissions from the plant as a whole. In fact, Lussier teaches away from measuring only a sample of raw product indicating that the whole plant or areas of plants should be measured. (Lussier, col. 1, ll. 22–36.) As such, Lussier does not teach, disclose, or suggest obtaining a sample of raw product from the plant as required by amended claim 1.

As discussed above, the Lussier system is used to determine the overall growth, productivity, and health of the plant. This differs from the claimed system, which analyzes the raw product of a plant to determine whether it is suitable for processing into a uniform quality end product. Independent claim 1 requires the one or more samples are analyzed to determine at least one structural or functional index and also requires “providing a plurality of product processing records, wherein each of the records associates a given set of product processing data with a corresponding product processing feature range set representative of the selected plant.” Claim 1 further requires “determining the suitability of the one or more samples ... by comparing the at least one structural or functional index to the product processing feature range sets in the records” and, if the index matches one of the range sets, selecting the product for processing to produce a quality end product. In other words, the plant sample is analyzed and then compared to a plurality of records to determine whether the plant sample is suitable for a derivative use, i.e. processing the raw product to produce a uniform quality end product.

While Lussier may compare analysis data to stored records, as alleged by Examiner, the stored records do not associate a given set of product processing data with a corresponding product processing feature range set representative of the selected plant. Instead, the analysis data, which comprises the fluorescence emission of the plant, is compared to previous or expected fluorescence emission values to determine the plants overall growth, productivity, and health. Lussier does not analyze a raw sample of a plant and compare the results against data to determine the suitability of the sample for a derivative use, but rather compares its results against data to determine the overall health and productivity of the plant itself. Thus, Lussier does not teach, suggest, or disclose a set of records associated with a given set of product processing data as required by step (c) of claim 1. Further, Lussier does not teach, suggest, or disclose determining whether a sample is suitable for processing into an end product as required by step

(d) claim 1. As Lussier does not teach, suggest, or disclose steps (c) and (d) of claim 1, Lussier cannot teach, suggest, or disclose step (e) of claim 1. For at least these reasons, Applicant respectfully requests that the Examiner reconsider and withdraw the § 103(a) rejection of independent claim 1.

Claims 2, 5, and 7-9 depend from independent claim 1 and thus, incorporate each limitation therein. Therefore, claims 2, 5, and 7-9 are allowable for at least the same reason as independent claim 1. Applicant therefore respectfully requests that the Examiner also reconsider and withdraw the rejection of claims 2, 5, and 7-9.

CONCLUSION

In view of the foregoing "Amendments" and "Remarks", Applicant believes that all outstanding rejections have been overcome and that the claims are in condition for immediate allowance. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 1, 2, 5, and 7-9 and that the Examiner indicate the allowance of all pending claims in the next paper from the Office.

The Examiner is invited to contact the undersigned attorney at 713.787.1697 with any questions, comments, or suggestions relating to the referenced patent application.

Respectfully submitted,



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